

## AMATEUR SWIMMING ASSOCIATION NORTH WEST REGION RULES COMMITTEE

### Rules of Carnforth and District Otters Swimming Club

Given below for your attention are the observations, comments and points of editing which the members of the Region Rules Committee consider should be given some further consideration before being agreed and submitted for approval to the Region Management Board.

#### Rule 2 Objectives

- 1 Rule 2.1.1  
The club needs to add age to the list of grounds on which the club will not discriminate. The club will have members in a number of different age groups and all age groups should be available to members.
- 2 Rule 2.3  
In October 2009 and October 2010 the ASA Council accepted a new structure for the constitution of the ASA that significantly reduced the number of ASA Laws and created a set of Regulations to deal with supporting information and procedures. In line one it is now necessary to make reference to the ASA Laws, Regulations and Technical Rules
- 3 Rule 2.3.2 and Rule 2.3.3  
To reflect a change of name it is necessary to make reference to ASA Laws and Regulations
- 4 Rule 2.4  
At the end of the rule it is necessary to make reference to “the laws, regulations, rules and constitutions of:”
- 5 Rule 2.4.1  
The rule needs to separate the ASA North West Region and Lancashire County to give two separate rules. Rule 2.4.1 should make reference to Lancashire County and Rule 2.4.2 should make reference to ASA North West Region with the remaining rules renumbered.

#### Rule 3 Membership

- 6 Rule 3.4  
The rule as currently stated contains two different actions and they should be separated to form two separate rules with the remaining rules renumbered. The first rule should give the method of applying for membership of the club and the second rule should give the procedure should an application for membership be refused
- 7 Rule 3.4  
The method of deciding if a person should be invited into membership of the club is a matter for the club to decide and should not be subject to approval by the Region Management Board. The situation is covered in Rule 3.6 for a swimmer and it is not necessary to repeat the condition in this rule. The method used by the club to decide on membership of the club should be placed in the By-Laws or Standing Orders of the club. If a person on application for membership is required to undertake a performance assessment then somebody, or a group, must be responsible for making the decision to admit or to refuse membership. The decision may be made by the Committee, a coach, a group of coaches, the Membership Secretary the Club Secretary or an individual with delegated authority from the committee to make that decision. The rule should identify the named position(s) of the individual(s) who the club have decided should make the decision on membership particularly if the application for membership is from an established swimmer, a parent, a volunteer a poolside helper or anybody who is not a swimmer. The rule should generally be along the following lines:
  - 3.4 Any person who wishes to become a member of the Club must submit a signed application to the Secretary and in the case of a junior swimmer the application must be signed by the swimmer's parent or guardian. Election to membership shall be determined by [\[insert the position of the person or persons charged with making the decision on membership\]](#) but other person(s) authorised by the Committee may make recommendation as to the applicant's

acceptability.

- 8 New Rule 3.5  
The remainder of the original Rule 3.4 that gives the procedure should an application for membership be refused will form the new Rule 3.5.
- 9 Existing Rule 3.5, Renumbered Rule 3.6  
To make the rule agree with Rule 2.1.1 it is necessary to add age to the list of grounds on which membership would not normally be refused.
- 10 Rule 3.7  
The numbering in the submitted constitution does not have a Rule 3.7 but this can be corrected when the rules are renumbered.
- 11 Rule 3.9.4  
Rule 3.9.4 is missing from the list of rules but this number can be used for the Life Members if the conditions for the Life members are moved from Rule 8.2 later.

#### **Rule 4 Subscription and Other Fees**

- 12 Rule 4.5  
At the start of the rule the Executive Officers are required to make the decision on the remittance of the fees but then the Committee are given the authority to make the decision. Only one of the two groups can make the decision and the alternative should be deleted from the rule. In many cases the Executive Officers are required to make the decision as the Secretary may be faced with issues of confidentiality and the Treasurer must know which member the decision applies to.

#### **Rule 5 Resignation**

- 13 Rule 5.1  
Rule 5.1 needs to be extended so that a member cannot resign from the club to avoid paying outstanding fees or to avoid any disciplinary action the club would wish to instigate against the member. The rule can be made as follows:  
5.1 A member wishing to resign membership of the Club must give to the Secretary written notice of his/her resignation. A member's resignation shall only take effect when agreed by the Committee and there is no financial commitment or disciplinary action outstanding against the individual and this Rule 5.1 has been complied with.

#### **Rule 6 Expulsion and other Disciplinary Action**

- 14 Rule 6.2  
The last sentence referring to Rule 6.3 and Rule 6.4 below should be deleted as the situation has been covered previously in Rule 6.1.
- 15 Rule 6.3  
ASA Judicial Regulations 281.3 and 281.4 now require a club to include in its rules provision specifying the procedures to be used to handle internal club disputes and for the procedures to comply with the provision of the ASA Judicial Regulations 150 to 155. As the ASA Handbook is normally only available to the Club Secretary it is important that the procedures are made available to the club committee and to the members of the club. In order to provide the necessary information it is recommended the actual procedures are given as an appendix to the constitutional rules of the club. The Internal Club Dispute procedures are given as an appendix to this report.
- 16 Rule 6.3  
As a consequence of the changes to ASA Laws and Regulations in October 2009 and October 2010 the procedures for handling Internal Club Disputes have been removed from ASA Laws and placed in ASA Judicial Regulations 150 to 155. To reflect this change the rule should be reworded as follows:  
6.3 The Club shall comply with the requirements and procedures of the Judicial Rules and Regulations for handling Internal Club Disputes as the same may be revised from time to time. A copy of the relevant Regulations and Procedures are given as an appendix to the constitutional rules.

- 17 Rule 6.5  
The necessary procedures for handling Internal Club Disputes are now given in ASA Judicial Regulations 150 to 155. At the end of the rule it is therefore necessary to delete "in accordance with ASA Laws and procedures" and substitute "in accordance with the appropriate Rules and Regulations."

### **Rule 7 Committee**

- 18 Rule 7.1  
At the end of the rule it is necessary to add that younger members may attend meetings of the committee only by invitation of the committee without the power to vote. The last sentence should then be as follows  
7.1 All Committee members must be not less than 16 years of age though the Committee may allow younger member(s) to attend their meetings by invitation of the Committee without the power to vote.
- 19 Rule 7.4  
The Secretary must give the members of the Committee not less than seven days written notice of a committee meeting along with the agenda and the supporting papers otherwise the members do not have sufficient time to collect information and prepare responses to the information given in the reports should that be needed.
- 20 Rule 7.6  
To make the rule compatible with Rule 7.1 it is necessary to add at the end of the rule the statement "Co-opted members shall be not less than 16 years of age."
- 21 Rule 7.7  
As currently stated a subcommittee can only be formed from the members of the committee and not from the wider club membership. In some cases it may be an advantage to form a subcommittee, a project group or a working group from the wider club membership particularly if specialist expertise or specialist knowledge is required.
- 22 Rule 7.8  
For a club to be Swim 21 accredited it should appoint the officers, the committee members and the other post holders against a role or job description. Therefore the Committee is responsible for determining the terms and conditions of service for its volunteers and helpers in addition to the employees of the club. This requirement should be reflected in the rule as follows.  
7.8 The Committee shall be responsible for the management of the Club and shall have the sole right of appointing and determining the terms and conditions of service of employees and voluntary helpers of the Club. The Committee shall have power to enter into contracts for the purposes of the Club on behalf of all the members of the Club.
- 23 Rule 7.11 and Rule 7.12  
Rule 7.12 is a repeat of Rule 7.11

### **Rule 8 Ceremonial Positions and Honorary Members / Life Members**

- 24 Rule 8 Title  
The rule only deals with the election of the President and the Vice Presidents. The conditions for the election of the Honorary Members are given in Rule 3.9.3 and they do not need to be repeated. The conditions for the election of the Life members should be moved to Rule 9.3 as it is a classification of membership. The conditions relating to the Honorary members and the Life members need to be in separate rules because the Honorary Members are appointed by the Committee for a specific period of time but the Life Members are elected by the membership at the Annual General Meeting for an unspecified period of time.

### **Rule 9 Annual General Meeting**

- 25 Rule 9.2.4  
It is necessary to add at the end of the rule that any resolution must be submitted in accordance with

Rule 9.3.

26 Rule 9.3

The rule as currently stated requires the nominations for office and the committee to be in the hands of the Secretary not less than 21 days before the date of the meeting. However, all the other proposals, resolutions or submissions for consideration are to be in the hands of the Secretary not less than 28 days before the date of the meeting. It is recommended that to make the rule agree with Rule 9.3.4, Rule 11.1 and Rule 11.2 all the items to be considered at the AGM should be in the hands of the Secretary not less than 21 days before the date of the meeting.

### Rule 10 Special General Meeting

27 Rule 10.1

The rule as currently stated contains two different circumstances and these should be separated to give two separate rules. The first rule should state that the Committee can call a special general meeting and the second rule should contain the remainder of the rule which states the circumstance under which the membership can call a special general meeting. The rules will then be as follows:

10.1 A Special General Meeting may be called at any time by the Committee.

28 New Rule 10.2

Some further consideration needs to be given to the number of signatures required to call a special general meeting by the membership. As currently stated the rule requires seven signatures for a special general meeting to be called but a committee meeting requires 11 members for a quorum. If seven members can call a special general meeting a small pressure group can repeatedly call special meetings over decisions they do not agree with even if they do not have the support of the majority of the members.

10.2 A Special General Meeting shall be called by the Club within 28 days of receipt by the Secretary of a requisition in writing signed by not less than [give number] members entitled to attend and vote at a General Meeting stating the purposes for which the meeting is required and the resolutions proposed.

29 New Rule 10.3

A new rule is required to recognise that the Annual General Meeting or any other General meeting can pass a resolution to call a further General meeting. An additional rule is required to provide for this requirement, as follows.

10.3 A Special General Meeting shall be called in response to a resolution to that effect passed at the Annual General meeting or at any other Special General meeting.

### Rule 11 Procedures at the Annual and Special General Meetings

30 Rule 11.6

As currently stated every member of the club over the age of 16 years can speak and vote at a general meeting. However, Rule 3.9.3, Rule 8.2\* and Rule 3.9.6 does not give voting rights to Honorary Members, Life members or Temporary members and these categories of membership should be excluded under the conditions of the rule.

11.6 Members who have reached their 16th birthday who are not excluded under the conditions of Rule 3.9.3, Rule 8.2\* and Rule 3.9.6 shall be entitled to be heard and to vote on all matters. Members who are excluded under the conditions of Rule 3.9.4, Rule 8.2\* or Rule 3.9.6 may be heard by invitation of the Chairman only. Members who have not reached their 16th birthday shall be entitled to be heard by invitation of the Chairman only on those matters determined by the Chairman as matters concerning juniors, such as the election of club captains.

\* If the conditions of membership of the Life Members are removed from Rule 8.2 and placed in Rule 3.9 as Rule 3.9.4 then the reference to Rule 8.2 should be removed from the above and replaced with Rule 3.9.4.

### Rule 12 Alteration of the Rules and Other Resolutions

31 Rule 12.1

The rule as currently state contains two different conditions and they should be separated to give two different rules. The first rule should give the voting conditions for a change of rule and the second to deal with the implementation of the rules. Rule 12.1 will then be as follows:

12.1 The Rules may be altered by resolution at an Annual or Special General Meeting provided that the resolution is carried by a majority of at least two-thirds of members present and entitled to vote at the General Meeting.

32 New Rule 12.2

The ASA Board has decided that the rules should be approved by the Region and not the County. At the end of the rule it is necessary to delete "County Association/". The rule will then be as follows:

12.2 No amendment(s) to the Rules shall become effective until such amendment(s) shall have been submitted to and validated by such person as is authorised to do so by the ASA North West Region or at a later date decided by the meeting.

33 Existing Rule 12.2, Renumbered Rule 12.3

It is normal that very member of the club over the age of 16 years who is excluded by a membership category from voting at a general meeting is also excluded from submitting nominations for office, making resolutions and submitting proposals for consideration at a general meeting.

34 Existing Rule 12.2, Renumbered Rule 12.3

To make the rule consistent with Rule 9.3, Rule 11.1 and Rule 11.2 the proposals should be submitted to the Secretary not less than 21 days before the meeting in all cases and not 18 days as currently given in the rule for a special meeting.

35 Existing Rule 12.2, Renumbered Rule 12.3

At the end of the rule it is necessary to state that the proposals and resolutions are provided in the manner provided in Rule 11.2 as well as Rule 11.1. The rule should be worded as follows:

12.3 Any member over the age of 16 years who is not excluded under the conditions of Rule 3.9.3, Rule 8.2\* or Rule 3.9.6 shall be entitled to put any proposal for consideration at any General Meeting provided the proposal in writing shall have been handed to or posted to the Secretary of the Club so as to be received by him/her not later than 21 days before the date of the meeting in the case of the Annual General Meeting or a Special General Meeting and thereafter the Secretary shall supply a copy of the proposal or resolution to the members in the manner provided in Rule 11.1 and Rule 11.2.

\* If the conditions of membership of the Life Members are removed from Rule 8.2 and placed in Rule 3.9 as Rule 3.9.4 then the reference to Rule 8.2 should be removed from the above and replaced with Rule 3.9.4.

## Rule 14 Finance

36 Rule 14.5

According to Rule 14.5 the Treasurer is required to close the books on 31st October. The end of the financial year must however be related to when the Annual General meeting is held. According to Rule 9.1 the Committee can call the Annual General Meeting on 1st December or on any date in December. However, the examined accounts, according to Rule 9.3, Rule 11.1 and Rule 12.3 must then be in the hands of the Secretary not later than 21 days before the date of the meeting.

It is recommended that the Annual General meeting in Rule 9.1 should be held not less than two months after the end of the financial year. The Treasurer needs sufficient time to close the books, have the accounts externally examined and then have the balance sheet and any financial reports in the hands of the Secretary not less than 21 days before the meeting for distribution to the members not less than 14 days before the meeting.

It is recommended that if the date of the Annual General meeting in Rule 9.1 is retained as December then the end of the financial year in Rule 14.5 should be not later than 31st September. If the date of the end of the financial year is retained as 31st October then the date of the Annual General meeting should not be before 1st January.

## Rule 17 Dissolution

37 Rule 17.1

In line one it is necessary to delete "proposed" and substitute "considered". Clearly the resolution to dissolve the club cannot be proposed at the meeting but must be submitted under the conditions of Rule 10.2 or Rule 11.2 and be on the order paper for the meeting.



## APPENDIX A

### ASA LAWS and REGULATIONS

#### INTERNAL CLUB DISPUTES

#### 1 CLUB RIGHTS and RESPONSIBILITIES

The rights and responsibilities of a club in terms of its discipline, its internal dispute procedures and the sanctions it can impose are given in ASA Law 281 which specifies:-

##### 281 Club discipline and internal dispute procedures

281.1 For a breach of its own rules, an affiliated club or body may:

281.1.1 apply sanctions to a member relating to activities wholly within its own jurisdiction up to and including suspension from any or all of them;

281.1.2 expel a member, provided that before doing so it informs the member of the alleged offence and gives him a reasonable opportunity to defend himself against the charge. If the alleged offence is also a breach of ASA Law or Regulations the club or body shall not deal with it but may make a complaint under the Judicial Laws and Regulations.

281.2 A club or body may expel from membership and/or refuse to renew the membership of any member who has been suspended according to Regulation 109 or Regulation 241 provided that any such expulsion or initial refusal shall not be lawful after the twelve months immediately following the end of the suspension.

281.3 Each club shall include in its rules provisions specifying the procedures to be carried out to handle internal club disputes.

281.4 Any such provisions shall comply with the ASA Recommended Club Constitution and the accompanying Guidance Notes.

#### 2 COMPLAINT TO ASA

Any dispute that involves an allegation of a breach of ASA Law must be submitted to the ASA and dealt with as a complaint under the condition of ASA Regulation 150.4 and ASA Regulation 281.1.2. ASA Judicial Regulation 102 deals with the circumstance of a complaint made to the ASA. It provides the necessary explanation that defines a complaint, the grounds on which a complaint can be made, who can make a complaint and the procedure to be used.

##### 102. Complaints

102.1 A complaint is a formal expression of dissatisfaction with the actions or behaviour of any person, including an individual or a club, or other body, or organisation or with alleged unfair practice in connection with the sport.

#### 3 INTERNAL DISPUTES

When a dispute arises between two or more members of the same club, body or organisation it must be handled using the Internal Disputes procedure specified in the Club Constitutional Rules and the following ASA Judicial Regulations 150 to 155.

##### 150 General

150.1 The primary objective of the Regulations in this section is to set out ways by which a just outcome of an internal dispute between the members of a club, organisation, association or body may be secured as expeditiously as possible.

150.2 An 'internal club dispute' is a dispute involving an alleged breach of the club's rules, between two or more club members, any or none of whom may be an officer of the club, or one or more club members and one or more employees of the club (the "parties").

- 150.3 If a dispute cannot be resolved fairly and amicably between the parties concerned, and does not involve a breach of ASA Law, it may be dealt with under the relevant provisions of Regulation 281 which deal with club rights and responsibilities.
- 150.4 Any dispute which involves an allegation that there has been a breach of ASA Law by a member must be dealt with as a Complaint under Regulation 102 and the other relevant Regulations.
- 150.5 If the dispute involves an allegation against a paid employee of the club the issue must be dealt with under the terms of his contract of employment.
- 150.6 A failure by a club or any of the parties to comply with these Regulations 150 to 155 inclusive shall be grounds for a complaint under Regulation 102.
- 150.7 Organisations, associations or bodies affiliated to the ASA shall conform with such parts of Regulations 150 to 155 inclusive as may reasonably be applied to them, in all respects as if they were a club.

### **151 Sequence of steps to deal with a dispute**

- 151.1 The parties shall use any reasonable means to settle the issues between them informally and amicably.
- 151.2 If such a resolution cannot be achieved, the dispute shall be referred to the chairman of the club committee or, if he is a party to the dispute, to another officer of the club who is not a party who within seven days of the reference shall appoint an independent person to act as a mediator between the parties. The mediator may be a member of the club or a member of another club affiliated to the ASA.
- 151.3 If the mediator is unable to bring about a satisfactory settlement within twenty one days, the club committee shall within a further fourteen days appoint a panel (the "panel") to determine the dispute.
- 151.3.1 The panel shall consist of three persons who have not been involved in the dispute, either from the members of the club or, if this is not possible or desirable, from the members of any other club affiliated to the ASA.
- 151.3.2 The parties shall be given the opportunity to object to any of the members of the panel at least seven days before the scheduled date of any hearing. The club committee shall consider any such objections, decide whether they are justified and act accordingly.

### **152 Procedure before a hearing**

- 152.1 The panel members shall appoint one of their number to act as the Chairman and either appoint another of their number, or alternatively appoint an additional person without any other powers, to act as the clerk of the hearing.
- 152.2 The Chairman of the panel shall arrange the date of the hearing and notify the parties of the arrangements at least fourteen days in advance of the date set. The notified date shall not be changed unless one or more of the parties has a compelling reason for not being able to attend on the notified day or time.

### **153 Procedure at a hearing**

- 153.1 The procedure shall be flexible and it shall be the responsibility of the Chairman of the panel to ensure the orderly and effective conduct of the hearing.
- 153.2 The panel shall not be bound by the judicial rules of the courts of England and Wales governing procedure or the admissibility of evidence provided that the hearing is conducted in a fair and orderly manner and that each party is given a reasonable opportunity to give and call evidence, address the panel and present his case. The Chairman shall have the discretion to limit the number of witnesses that would otherwise have been called.
- 153.3 Witnesses shall normally be provided with an area outside the hearing room and not take any part in the hearing other than giving evidence and responding to questions

- 153.4 The parties shall be informed of their right to make a complaint under Regulation 102 if they are dissatisfied with the conduct of the hearing or the grounds upon which the decision was made or if they consider any sanction imposed to be disproportionate.

#### **154 Procedure after a hearing**

- 154.1 The panel shall come to a decision as soon as reasonably practicable after the hearing and if possible announce its findings and decisions orally to the parties.
- 154.2 Notwithstanding anything in Regulation 154.1 the Chairman shall notify the parties and, if the club was not a party to the dispute, the club secretary in writing of its findings and decisions within five days of the hearing.

#### **155 Considerations regarding children**

- 155.1 Any person under the age of eighteen (a "child") who is a party to a dispute or who has been called as a witness shall normally be accompanied by a parent, a person with parental responsibility or a suitable adult. The Chairman shall have the sole discretion as to whether a child is permitted to present or defend a case or be questioned as a witness and may order that the child be assisted or represented by an adult.
- 155.2 The Chairman shall give due consideration to any child attending a hearing as a party to a dispute or to give evidence and in particular:
- 155.2.1 No child aged fourteen or under shall normally be expected to attend a hearing to give evidence in person. His evidence shall normally be given as a written statement with the assistance of a club welfare officer or other person acceptable to the child and parent. Questions and responses may be relayed by a panel member. If the child appears distressed the panel shall rely only on the written evidence:
- 155.2.2 A child over the age of fourteen shall only attend a hearing as a party to the dispute or to give evidence in person provided he wishes to, and the Chairman has consulted with the parent and child and is satisfied that they both understand the nature of the hearing and what will happen and that the child is competent to attend:
- 155.2.3 If there is a disagreement between parent and/or child and the Chairman on any of the considerations above, the Chairman shall consider requesting advice from the Independent Child Protection Officer via the ASA Legal Department.
- 155.3 During the hearing, a child who is expected to give evidence in person and his accompanying adult(s) shall be required to attend only those parts of the hearing which are necessary for him to give his evidence and shall be provided with a separate waiting area with no contact with any of the [other] parties.
- 155.4 After the hearing the Chairman shall inform the parent of the panel's findings and decisions and shall discuss whether he or the parent shall inform the child.